Remarks

Claims 16, 21, 22, 25, 55, 57-59, 61-63, 65, 66 and 72 have been amended, claims 23, 27, 33, 40, 56, 60 and 64 have been canceled and new claims 73-75 have been added. This Preliminary Amendment accompanies a Request for Continued Examination and addresses issues raised in the Final Office action of January 17, 2006. Review and reconsideration in light of these Amendments and the comments below are respectfully requested.

Claims 21, 55, 59, 63 and 72 are rejected as allegedly failing to comply with the written description requirement. Accordingly, claim 21 has been amended to remove the reference to a "supplemental" reach stacker.

Claims 55, 59 and 63 have been amended to specify that the storage deck has a strength of approximately 1,750 pounds per square foot.

Claim 72 has been amended to specify that the "causing" step includes causing the reach stacker to travel over the ramp to the storage deck, to clarify that the subject matter of claim 72 applies to loading containers on a vessel and not to unloading containers from a vessel.

Claims 57, 61 and 65 are objected to. Accordingly, those claims have been amended to specify that the ramp has a length of approximately 75 feet.

Claims 27 and 33 are objected to, and by this Amendment have been cancelled.

The last step of claim 16 has been amended to ensure consistency in the usage of "each" container.

Claim 25 is objected to on the basis that the disclosed method is unclear. The Office action indicates that the alternative recitations renders the claim unclear. It is believed that the first alternative limitation of claim 25 is not unclear since that claim limitation simply specifies lifting a container along or adjacent to an upper edge thereof. For example, similar limitations are included in claims 16 and 22, which are not objected to.

The second alternative limitation of claim 25 specifies that the reach stacker can travel over a ramp "to or from" a storage deck of the marine vessel. It is submitted that this alternative limitation does not render the claim unclear, as the "causing" step encompasses both loading

operations (traveling over the ramp *to* the storage deck) as well as unloading operations (traveling over the ramp *from* the storage deck).

The "positioning" step of claim 25 specifies that the container is positioned on a support surface or dock. Claim 25 has been amended to clarify that the support surface is a support surface of the vessel (as is consistent with, for example, claim 35). Thus the positioning step covers both loading operations (positioning a container on the *support surface*) and unloading operations (positioning a container on a *dock*) in a manner that is consistent with the "causing" step of claim 25. Thus, it is submitted that claim 25 is not unclear.

Claims 56, 60 and 64 are objected to on the basis that the specification allegedly does not reasonably convey to one of ordinary skill in the art that the inventor had possession of the claimed invention.

Applicant would like to thank the Examiner for the courtesy of a telephone interview on March 13, 2006. At that time the undersigned advanced the position that the implicit or inherent disclosure or teachings of the originally filed application (i.e., at page 3, lines 20-22, page 5, lines 14-19 and claim 7) described the invention specified in claims 56, 60 and 64 in sufficient detail to reasonably conclude that the inventor had possession of the invention. More particularly, the originally-filed specification clearly disclosed that additional stability of the vessel is desired and that therefore beam to length ratios in excess of ¼ were contemplated.

During that interview the Examiner agreed that the specification does provide such teachings, and that claims 56, 60 and 64 are properly described and supported by the original specification. Accordingly, the subject matter of claims 50, 60 and 64 have been retained in the application.

Turning to the rejections over the prior art, claims 22, 25, 26, 32, 46-48, 50-53, 71 and 72 are rejected as being anticipated by U.S. Patent No. 4,482,285 to Copie. Accordingly, independent claims 22 and 25 have been amended to specify that the claimed method further includes the step of accessing a marine vessel, wherein the marine vessel has a beam of at least about ¼ of its length to provide a relatively stable marine vessel. The other independent claim (claim 16) has been similarly amended. Thus, claim 16 has been amended to include the subject

matter of claim 56, claim 22 has been amended to include the subject matter of claim 60 and claim 25 has been amended to include the subject matter of claim 64. Claims 56, 60 and 64 have been cancelled.

In the rejection of claims 56, 60 and 64, the Office action cites to U.S. Patent No. 4,552,082 to Grey as allegedly showing a vessel with a beam to length ratio of at least about ¼. The Office action then concludes that it would have been obvious to one of ordinary skill in the art to modify the method of Copie by utilizing the beam to length ratio of Grey. However, such a rejection on this basis is respectfully traversed.

As an initial matter, it is submitted that the claimed beam to length ratio is not properly shown in the Grey reference. No written disclosure of a beam to length ratio could be found in the Grey reference. Accordingly, it is assumed that the beam-to-length ratio cited in the Office action is taken from the drawings of Grey. However, as noted in MPEP §2125, when a prior art reference does not specifically indicate that the drawings are to scale and is silent as to dimensions, arguments based upon dimensions/ratios of the drawing features are "of little value." (citing *Hockerson-Halberstadt, Inc. v. Avia Group Int'l,* 222 F.3d 951, 956 (Fed. Cir. 2000)).

The Grey reference is directed to a method and a vessel for incinerating hazardous liquid waste at sea. The Grey reference does not appear to include any description or discussion of the particular shape of the vessel disclosed therein, or of the beam to length ratio of the vessel. Thus, any beam to length ratio shown in the figures appears to be a byproduct of whatever dimensions were chosen by the draftsman.

In fact, the Grey reference even includes disclosure that suggests that most of the drawings are not to scale. More particularly, at column 7, line 1, the Grey reference specifically indicates that Fig. 22 is drawn to the scale of Fig. 21. However, none of the other descriptions of the drawings indicates that they are to scale, either to "true" scale or to the scale of other drawings, thereby implying that they are not to scale. Thus, it is submitted that this disclosure, along with the basic rule that absent any indication of scale, drawing figures are of "little value," supports Applicant's position that the subject matter of claims 16, 22 and 25 is not disclosed in the Grey reference.

In addition, it is submitted that the Office action does not provide sufficient motivation as to why one of ordinary skill in the art would utilize any beam to length ratio of the Grey reference in the system of the Copie reference. For example, the Office action specifies, as the motivation to the proposed combination, the desirability to "provide a more stable vessel." However, neither the Copie nor the Grey references cite to a need for any increased stability.

In contrast, at page 5, lines 14-19 of this application, it is specified that the barge is dimensioned such that the reach stacker can move about the deck without causing the barge to list or lean to its side by an undesirable amount. Because most existing barges are not designed to carry reach stackers with fully loaded containers thereon, a barge with an insufficient beam to length ratio will list undesirably to one side.

The Grey reference, on the other hand, is directed to a method and vessel for incinerating hazardous liquid waste at sea. The Grey reference does not appear to cite to or disclose the concept of locating a heavy load (i.e., a fully loaded read stacker) on one side of the vessel, and does not appear to cite to or disclose any need for increased stability. Indeed, at Fig. 1, the Grey reference discloses utilizing a crane 14 to load containers 12 on the vessel 15. A reach stacker (which itself has significant weight) is not disclosed to be driven onto the vessel. In addition, when a crane is utilized to load containers, as in the Grey reference, any listing of the vessel does not affect loading operations to the same extent as a reach stacker, which must be driven on the (listing) vessel. Thus, the system of Fig. 1 of Grey does not implicate the same stability issues as those addressed in the current application.

Similarly, the Copie reference is directed to a cargo container handling assembly that can be mounted on the lift beam of a mobile vehicle. The Copie reference also does not appear to recognize a need for any increased stability of a vessel.

Thus, given the application's recitation of a need for increased stability, it appears that the Office action has used the Applicants' disclosure as a template to identify individual elements of the claims to arrive at the claimed invention. MPEP §2145 notes that "any judgment based on obviousness is in a sense a reconstruction based on hindsight reasoning, but so long as it . . . *does not include knowledge gleamed only from applicant's disclosure,* such a reconstruction is

proper." (emphasis added) In this case, the Office action uses a benefit that is identical to one cited in the application to reconstruct Applicants' invention. Accordingly, it is submitted that, for this additional reason, the claims are patentable over the cited art.

Returning briefly to the claim amendments, because each of claims 16, 22 and 25 have been amended to specifically recite the step of "accessing a marine vessel," claims 55, 58, 59, 62, 63 and 66 have been amended to remove that claim step. In addition, because each of independent claims 16, 22 and 25 recite the element of a ramp, claims 57, 61 and 65 have been amended accordingly.

It is noted that the Office action takes Official Notice with respect to the subject matter recited in claims 33 and 40. By this Amendment, claims 33 and 40 have been cancelled. Accordingly, Applicant reserves the right to challenge the Official Notice with respect to those claims should the subject matter of claims 33 and/or 40 be introduced at a later date.

More particularly, Applicant believes the allegedly noticed facts are not considered to be common knowledge or well-known in the art. With respect to claim 40, it is submitted that marine vessels including a rail extending along the deck of a ship are not well-known, and that a ramp having a downwardly extending lip, and the coupling method described in claim 40 are not well known. For example, while the Office action refers to hooking the lip of the ramp over a rail on the back of a moving truck, such usage is not usage on or in association with a marine vessel. In addition, the "ramp" web page printouts submitted in Applicant's previous Amendment and discussed on page 20 do not appear to disclose the subject matter of claim 40.

The Biaggi reference and the Japanese '816 application (cited in earlier Office actions) references do not appear to disclose the subject matter of claim 40, which is submitted as evidence that the alleged well known features are not well known. Accordingly, the Examiner's assertion of Official notice is hereby traversed, and should the subject matter of claim 40 be later introduced, Applicant requests the Office to produce the authority for its contention.

It is noted that in addressing claim 23 the Office action takes the position that it is "old and well-known in the art" to secure a ramp to a longitudinal rail. Although this statement does

not include any reference to "Official Notice," to the extent official notice is taken this official notice is traversed in the same manner as discussed above in the context of claim 40.

With respect to claim 33, the Office action, on the one hand at page 4, indicates that the subject matter of claim 33 is not described in the original specification in such a way to convey to one of ordinary skill in the art that the inventor had possession of the claimed invention. On the other hand at page 7, the Office action takes the position that the subject matter of claim 33 is notoriously old and well known. It is believed that this inconsistency renders at least one or both of these positions subject to challenge.

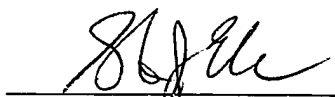
Finally, it is noted that claims 46-48, 50-52, 71 and 72 are indicated on page 4 of the Office action to be anticipated. At page 5 those claims are rejected over the Copie reference "in view of Backteman et al." Accordingly, should these claims continue to be rejected, clarification as to the nature of the rejection is requested.

In light of the amendments and arguments submitted herewith, it is submitted that the application is now in a condition for allowance and a formal notice thereof is respectfully solicited.

Applicants hereby petition under 37 C.F.R. §1.136 for an extension of time of one month to respond to the outstanding Office action. The attached check incorporates the $60 fee for a response within the first month. (37 C.F.R. §1.17(a)).

The Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or to credit any overpayment to Deposit Account 20-0809. Applicant hereby authorizes the Commissioner under 37 C.F.R. §1.136(a)(3) to treat any paper that is filed in this application which requires an extension of time as incorporating a request for such an extension.

Respectfully submitted,



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